

Questions and Answers During the May 20, 2009 Open House for
Navigable Waters Rulemaking

1. Q: The rules appear to be oriented toward northern Idaho, and not toward issues faced on Payette Lake. What can be done to better protect water quality through the rules? In particular, the rules regarding slip covers and shading are not acceptable on Payette Lake where shading is not good for water quality.

A: The rules are written broadly to apply to all the different lakes in Idaho. Water quality issues are not central to the Lake Protection Rules. IDL largely relies on DEQ to maintain water quality. Some lakes have lake management plans that are implemented, such as Payette and Priest, and others have plans in the draft stage, such as Coeur d'Alene. Since slip covers are part of our rules, however, they can certainly be discussed in more depth during the rule negotiations.

2. Q: What is the schedule for the rule making and how was it determined?

A: Rule negotiations are scheduled for June 16th, 23rd, and 30th. Additional sessions will be scheduled as needed. The rule making must be completed by July 24th in order to meet the deadline for submittal to the 2010 legislature.

3. Q: Will additional changes be possible to address parking concerns and water lodges?

A: Yes, additional changes may be discussed during the rule negotiations.

4. Q: Can other rule changes be proposed?

A: Yes, other rule changes can be proposed and discussed. All changes must conform to the Public Trust Doctrine, case law, and existing statutes.

5. Q: Can flo lodges (water lodges) be addressed?

A: The Idaho Department of Parks and Recreation has determined that these structures are vessels and will be licensing them as such. Since they are vessels the Idaho Department of Lands is currently not considering them to be encroachments. We encourage the counties and cities to develop and pass ordinances to address any concerns that they may have regarding these structures.

6. Q: Is this meeting being recorded? Can we get a transcript? Only half of what is being discussed from Boise is being received by the other locations.

A: The open house is not being recorded due to technical challenges. The questions asked and answers given will be posted at the rulemaking website, hopefully by Friday of this week.

7. Q: Why was the International Building Code reference being eliminated?

A: The Idaho Division of Building Safety refers to the International Building Code for all their building standards, except for plumbing and electrical standards. They use a different, and

competing, set of standards for plumbing and electrical. We are proposing to adopt those same standards, in regards to float homes, in our rules to allow more coordination between the Idaho Division of Building Safety, the Idaho Department of Lands, and the local health districts.

8. Q: Why is the rulemaking again being conducted during this time of year when it is difficult to participate?

A: Rulemaking cannot occur while the legislature is in session. For this year, that eliminated four months from our calendar. The deadline for rule submission is around August 1st. That deadline must be met in order for the rules to be sent to the 2010 legislative session. As a result, we are stuck in between the legislative session and August 1st.

9. Q: If the plumbing and electrical standards for float homes will conform to the Idaho Division of Building Safety standards, will the state be doing the inspections?

A: It is not clear at the present time if the state will actually do the inspections, or if local health districts will do them, or if the inspections will be done by contractors. Changing to the same standards will at least allow the possibility of the state or the health districts doing the inspections. We may be able to enter into some agreements with the Idaho Division of Building Safety and the local health districts to simplify the inspections.

10. Q: Why was the shading requirement removed from Subsection 015.13?

A: The reason for this change is not clear. It will be a good topic for discussion during the rule negotiations. Shading and slip covers were much debated two years ago, and will likely be debated again. Fish and Game, marine contractors, and other participants contributed to a good discussion in 2007. Hopefully these participants can show up again.

11. Q: What about the piling removal on the Spokane River? What is the status of that project?

A: Piling removal on the Spokane River is being handled by our Mica office in Coeur d'Alene. Please contact Carl Washburn for information regarding this project.

12. Q: Are fire codes being included in the rules?

A: The Department did not propose the inclusion of fire codes, but that can certainly be proposed during the rule negotiations. It is not the Department's area of expertise.

13. Q: Will the submerged lease rates be increased?

A: No increases or changes to the lease rates are being proposed. We would like to clarify that lease rates are based on a percentage of gross receipts for moorage, restaurants, ship's stores, and other common uses.

14. Q: Can the 50% private moorage rule be clarified in the rules?

A: Yes. We are proposing some changes to do just that, and we would welcome any suggestions to improve on the language.